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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re K.B., et al. Persons Coming
Under the Juvenile Court Law.

B267578

(Los Angeles County
Super. Ct. No. DK10765)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

J.B.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County,
Annabelle Cortez, Judge. Affirmed.

Catherine C. Czar, under appointment by the Court of Appeal, for
Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County
Counsel, and Olivia Raquel Ramirez, Senior Deputy County Counsel, for
Plaintiff and Respondent.

J.B. appeals the juvenile court’s jurisdictional and dispositional orders finding that: (1) she was unable to provide regular care for her four children due to her abuse of methamphetamine; and (2) returning the children to her custody would pose a substantial danger to their well-being. Mother contends there is insufficient evidence to support either finding. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. Referral and Detention of Ayden B.

1. Events preceding Ayden B.’s section 300 petition

J.B. (Mother) is the mother of four children: K.B., born November 2005; Alexzander B., born April 2007; T.B., born November 2008; and Ayden B., born March 2015.

In late March of 2015, the Orange County Social Service Agency (SSA) received a report that Mother and Ayden had tested positive for methamphetamine at the time of the child’s birth. UC Irvine Medical Center (UCIMC) social worker Lewis Wetzel informed SSA he had interviewed Mother at the hospital shortly after she gave birth. Mother told Wetzel she used to smoke methamphetamine regularly, but had remained “clean” for the past seven years. Mother admitted she had used methamphetamine “for a couple of days [before coming] to the hospital.” According to Mother, she had used the drug because she was “stressed out” due to the recent death of Mother’s grandmother. Wetzel reported that Mother’s UCIMC medical records indicated she had testified positive for methamphetamine during a January examination at Long Beach Memorial Hospital. Mother also told Wetzel she had previously been diagnosed with bipolar disorder, and was not currently taking any medication.

A UCIMC nurse told SSA that Mother was behaving normally, and that Ayden appeared to be healthy. A second nurse, however, reported that Ayden looked jittery, which might be a sign of “withdrawal.” A third nurse reported that Mother had been sleeping most of the time, “[was] not really bonding with [Ayden]” and had to be told when to feed and change the baby.

A SSA social worker interviewed Mother at the hospital. Mother informed the social worker she was not employed, and served as the primary caretaker for all of her children. Ayden’s father was not involved in Mother’s

life, and had not made any attempt to see the newly-born child. Mother stated that none of her children had ever been abused. She denied abusing alcohol, but admitted she had a prior arrest for being under the influence of a controlled substance. She denied any additional criminal history.

Mother informed SSA she had previously been diagnosed with “bipolar disorder,” and was not taking any medication for the condition. Mother could not recall the name of the doctor who had diagnosed her, or the hospital where the diagnosis had occurred. In regard to past drug use, Mother told SSA she had a “history with methamphetamine when she was younger,” but had stopped taking the drug when she got pregnant with K.B. in early 2005. Mother said she had not used the drug during her pregnancies with Alexzander and T.B., and had remained drug-free until the last few days of her pregnancy with Ayden. Mother stated that she would be open to receiving drug treatment.

2. SSA’s section 300 petition and detention

On March 25, 2015, SSA filed a petition under Welfare and Institutions Code section 300 alleging Ayden was a person described under subdivision (b). Specifically, the petition alleged Ayden had suffered, or was at substantial risk of suffering, serious physical harm or illness as a result of Mother’s “inability . . . to provide regular care . . . due to . . . mental illness, developmental disability or substance abuse.” The petition alleged five facts in support of jurisdiction: (1) Mother and Ayden had tested positive for methamphetamine at the time of the child’s birth; (2) Mother had an unresolved methamphetamine abuse problem; (3) Mother had a “history of mental health issues,” and was not currently taking medication; (4) Mother had suffered prior arrests for possession of a controlled substance; and (5) the whereabouts of father was unknown.

SSA filed a detention report in support of the petition summarizing the results of its initial investigation. SSA recommended Ayden remain detained from Mother. The juvenile court found SSA had made a prima facie evidentiary showing that Ayden was a person described in section 300, and ordered her detained. The court scheduled a jurisdiction hearing on April 22, 2015.

B. Referral and Detention of K.B., Alexzander and T.B.

1. Events preceding the section 300 petition

While Ayden's dependency case was proceeding in the Orange County Superior Court, SSA contacted the Los Angeles County child abuse hotline regarding Mother's other three children: K.B., then nine years old; Alexzander, then seven years old; and T.B., then six years old. The Los Angeles County Department of Children and Family Services (DCFS) contacted the children's maternal grandmother, who reported that she was caring for them while Mother was at the hospital recovering from the birth of Ayden. The grandmother stated that she knew Mother had used methamphetamine in the past, but was not aware of any recent use. The grandmother also reported that the apartment where she resided with Mother and the children had "issues with mice," but claimed an exterminator was working on the problem.

DCFS also spoke with Breanna A., a friend of Mother's who resided in the family's apartment. Breanna reported that she knew Mother had a history of substance abuse, but was not aware of any current or recent use. Breanna also stated that she had no concerns regarding the children's well-being. She acknowledged, however, that there was a significant "mice and roach" problem in the apartment. Breanna showed the social worker several holes in the walls that had been caused by mice, and explained that the landlord had refused to address the issue.

DCFS also spoke with K.B., who stated that she frequently saw mice and cockroaches inside the apartment. K.B. reported that her uncle, Travon W., lived with the family and regularly smoked marijuana in his room. According to K.B., Travon always kept his door shut when he smoked, and she had never seen Mother use drugs. K.B. stated that although Mother provided enough food to eat, she sometimes had to eat noodles until Mother received her food stamps. K.B. also said she was not afraid of being at home, and had never been abused.

Alexzander told DCFS he was "hit with a belt" when he "g[ot] in trouble," and that he felt "afraid." Alexzander claimed he had been "hit everywhere" with the belt, but denied having any marks or bruises on his body. Alexzander had also seen "cockroaches and mice in the home,"

explaining that they were all over the apartment. He said he ate food every day, and denied witnessing, or being subjected to, any form of abuse. T.B. said his uncle Travon smoked “weed” inside his bedroom with his friends.

The children’s uncle Travon informed DCFS that Mother provided sufficient food for her children. When asked about his marijuana use, Travon stated that he had obtained a medicinal marijuana card to treat his insomnia. Travon said he normally used the drug in the morning, after the children had left for school. Travon acknowledged the condition of the apartment was a “problem,” explaining that he had seen cockroaches and mice throughout the apartment, and that the landlord refused to address the problem.

On March 31, 2015, DCFS conducted an unannounced visit of the family’s apartment. The DCFS social worker saw signs of mice and cockroach infestation, and found the overall condition of the apartment to be “deplorable.” The grandmother told the social worker that the landlord had recently sent the family a letter notifying them they had 60 days to vacate the premises.

DCFS interviewed Mother during the visit. Mother stated that she had used methamphetamine once during Ayden’s pregnancy, which occurred “the day after [Mother’s] grandmother passed away.” Mother reported that she started using methamphetamine when she was 16 years old, and had been sober for six or seven years. She admitted that she had been arrested for driving while under the influence of the drug, and that she had been diagnosed with bipolar disorder. Mother said she had notified the health department and the landlord that there were mice in the walls of the apartment. According to Mother, the landlord had responded to her complaint by serving an eviction notice.

Alexzander’s father, Paul R., told DCFS he normally had custody of his son on the weekends, and that his son was “sometimes not clean” when he picked the child up from Mother. Paul R. denied any substance abuse history, mental health history or prior incidents of child abuse. He admitted, however, that he had been convicted of a domestic violence crime in 2013. DCFS visited Paul R.’s home, and found it suitable for Alexzander. DCFS

reported that Paul R. and his family members appeared supportive of Alexzander, and wanted to care for him.

Mother's landlord told DCFS the family members were "pigs," and regularly discarded food containers onto the floors. The landlord said she had sent multiple exterminators to the apartment, and that none of her other rental units had a rodent problem.

On April 5, 2015, DCFS met with K.B. and T.B., who had been temporarily placed in the home of their maternal cousin and great aunt. The children informed DCFS they enjoyed living in their new home, and wanted to stay there. K.B. explained that the new house was cleaner and quieter than Mother's apartment, and that her cousin and aunt acted lovingly toward the children. DCFS reported that K.B. and T.B. appeared comfortable in the presence of their new caregivers.

2. DCFS's section 300 petition

On April 10, 2015, DCFS filed a petition alleging K.B., Alexzander and T.B. fell within the jurisdiction of the juvenile court under Welfare and Institution Code section 300, subdivisions (b) and (j). Counts (b)(1) and (j)(1) of the petition contained identical allegations asserting that Mother had a "history of illicit substance abuse and is a current user of methamphetamine, which renders [her] incapable of providing regular care of the children." The counts further alleged Mother had "previously used methamphetamine during her pregnancy with the children's sibling, Ayden." Count (b)(2) alleged that the children's "home was found to be in a filthy and unsanitary condition in that there was a mouse and roach infestation. . . . Such a filthy and unsanitary home environment . . . endangers the children's physical health and safety." Count (b)(3) alleged Mother had "mental and emotional health problems, including a Bi-Polar disorder, which render the mother incapable of providing regular care to the children. The mother failed to take . . . psychotropic medication, as prescribed." Count (b)(4) alleged Mother "placed the children in a detrimental and endangering situation by allowing the children's maternal uncle . . . to be under the influence of marijuana in the children's home in the children's presence."

DCFS filed a detention report in support of the petition summarizing the results of its initial investigation. In its assessment and evaluation,

DCFS concluded that “without court intervention, [K.B., T.B. and Alexzander would] likely be in danger or at risk of neglect,” emphasizing that the evidence established each of the following facts: (1) Mother was a methamphetamine user who had used the drug shortly before giving birth to the children’s sibling Ayden; (2) Mother had been diagnosed with bipolar disorder, and was not taking any medication to treat her condition; and (3) the apartment was infested with mice and cockroaches.

The juvenile court found DCFS had provided prima facie evidence that the children were persons described in section 300, and ordered them detained. The court scheduled a jurisdiction hearing on June 30, 2015.

C. Jurisdiction Reports and Hearings

1. The SSA’s jurisdiction report regarding Ayden

On April 17, 2015, SSA filed a jurisdiction report that summarized the findings in DCFS’s detention report regarding Mother’s other three children.

SSA’s jurisdiction report also summarized additional interviews the agency had conducted with the family and other witnesses involved in the case. On April 14, 2015, Mother told SSA she had not tested positive for methamphetamine in January of 2015, asserting that her children would have been taken away from her if that had occurred. Mother admitted she and Ayden had tested positive for methamphetamine at the time of the child’s birth, and that she was not currently taking medication for her bipolar disorder. Mother also admitted she had been arrested in 2012 for driving under the influence of methamphetamine. SSA reported that Mother’s criminal history indicated she had actually been arrested twice in 2012 for being under the influence of a controlled substance. In its assessment and evaluation, SSA recommended that the juvenile court sustain the petition, and declare Ayden a dependent child. It further recommended that the court transfer the case to Los Angeles County, where the matter could be adjudicated with the pending DCFS case involving Mother’s other three children.

At the jurisdiction hearing, Mother submitted to the allegations in SSA’s petition. The court sustained the petition, and issued an order transferring the case to the Los Angeles County Superior Court for disposition.

2. DCFS's jurisdiction report regarding K.B., Alexzander and T.B.

After Ayden's case was transferred to Los Angeles County, DCFS prepared a jurisdiction report involving Mother's other three children. The report summarized additional interviews DCFS had conducted with family members and other witnesses on April 29 and April 30. K.B. informed DCFS she did not think that Mother abused drugs. K.B. believed the apartment was a "bad environment," explaining there were "lots of bugs." K.B. reported that her uncle Travon smoked marijuana in the home, but only in his room, away from the other occupants.

Alexzander stated that on four prior occasions, his uncle Travon had forced him to "fight [his] brother [T.B.]." Alexzander stated that he never wanted to return to Mother's home, and that he had witnessed his uncle get pushed into a wall during a fight with Mother.

Mother denied any current use of methamphetamine. She told DCFS she had "been sober for so many years," but had suffered a relapse when Mother's grandmother had died. Several days after Ayden was born, Mother provided DCFS a clean drug test. Mother stated that she was attending Narcotics Anonymous meetings, but was unable to produce any documentation verifying her attendance. She also told DCFS she had provided a clean drug test to SSA. SSA, however, informed DCFS it could not find records of any such test.

Mother also stated she had contacted the health department about the mice and roach infestation in the family's apartment, and could not afford to move the family to a new residence. Mother confirmed she had bi-polar disorder, and was not currently taking medication. Mother also stated that her brother Travon had a medicinal marijuana card, but claimed he smoked alone in his bedroom.

Mother's landlord informed DCFS she "never had dirtier tenants," and that the family was responsible for the cockroach and mice infestation. DCFS's report included numerous pictures of the apartment that showed garbage, food and mouse droppings on the floors of the home.

DCFS recommended that the juvenile court sustain the petition in its entirety, order the children removed from Mother and provide her reunification services for K.B., Ayden and T.B. DCFS further recommended

that Alexzander be placed in the custody of his father, and that Mother receive enhancement services.

At the July 23, 2015 jurisdiction hearing, Mother submitted on counts (b)(1) and (j)(1), which related to her methamphetamine use, but requested that the court dismiss counts (b)(2), (3) and (4). Mother argued there was no basis to sustain count (b)(2), which alleged unsanitary conditions in the apartment, because she had moved into a new residence. Mother also argued the evidence showed she had repeatedly contacted the health department to resolve the mice and cockroach problems at her old apartment. On counts (b)(3) and (b)(4), Mother argued DCFS had provided no evidence that her mental disability or the uncle's use of medicinal marijuana placed the children at substantial risk of harm.

The court sustained the petition on all counts. On counts (b)(1) and (j)(1), the court explained that Mother and Ayden had tested positive for methamphetamine at the time of the child's birth in March of 2015. According to the court, the SSA reports also contained evidence that Mother had tested positive for the drug in January of 2015. The court concluded that "based on the totality of the facts, . . . it [could not] find[] that this was a one-time use or one-time relapse." The court also found that the unsanitary conditions in the apartment demonstrated the children had been exposed to health risks, and that Mother's mental condition and the uncle's drug use may have contributed to the situation.

Although the court found the children were persons described in section 300, it delayed disposition to allow DCFS further time to investigate whether any notice was required under the Indian and Child and Welfare Act. The disposition was scheduled for October 20, 2015.

D. Disposition

Prior to the disposition hearing, DCFS submitted a "Supplemental Report" informing the court that K.B. and T.B. remained placed with their maternal great-aunt, Ayden had been placed with an uncle and Alexzander remained placed with his father, Paul R. DCFS also reported that Paul R. had requested full legal and physical custody of Alexzander. DCFS recommended the court grant the request, and terminate jurisdiction over Alexzander with a family law exit order.

At the disposition hearing, the children’s counsel joined in DCFS’s recommendation that the court should: (1) terminate jurisdiction over Alexzander with a family law exit order awarding Paul R. custody of the child; and (2) remove Mother’s other three children from her home. Mother’s counsel informed the court she had agreed to submit to DCFS’s proposed case plan. Counsel further explained, however, that Mother objected to “the closing” of Alexzander’s case, and requested an opportunity to reunify with the child.

The court ordered K.B., T.B. and Ayden detained from Mother. The court concluded it had no basis to “maintain jurisdiction over [Alexzander], given that there is a non-offending parent who has taken custody of [him], and there are no safety concerns with respect to that arrangement.” The court ordered family reunification services for the other children, and terminated Alexzander’s case.

DISCUSSION

Mother argues there was insufficient evidence to support the juvenile court’s jurisdictional findings that her four children were persons described in section 300, and its dispositional finding that leaving the children in her care would place them at substantial risk of harm.

A. Substantial Evidence Supports the Juvenile Court’s Jurisdictional Findings

1. Standard of review

We review a juvenile court’s jurisdictional findings for substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773 (*I.J.*)) Substantial evidence is “evidence that is reasonable, credible, and of solid value.” (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1401.) We examine the whole record in a light most favorable to the findings and conclusions of the juvenile court, and defer to the juvenile court on issues of credibility of the evidence and witnesses. (*In re A.J.* (2011) 197 Cal.App.4th 1095, 1103.) We determine only whether there is any substantial evidence, contradicted or uncontradicted, that supports the juvenile court’s order, resolving all conflicts in support of its determination, and drawing all reasonable inferences to uphold its ruling. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1124.) If there is substantial

evidence to support the juvenile court's order, we must uphold the order even if other evidence supports a contrary conclusion. (*In re N.M.* (2011) 197 Cal.App.4th 159, 168 (*N.M.*.)

“When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence. [Citations.]” (*I.J.*, *supra*, 56 Cal.4th at p. 773.)

2. Mother has not waived her right to challenge the court's jurisdictional findings

DCFS argues Mother has waived her right to challenge whether sufficient evidence supports the court's jurisdictional findings because she submitted on the issue during Ayden's April 22, 2015 jurisdiction hearing (held in Orange County Superior Court), and also submitted on counts (b)(1) and (j)(1) (alleging methamphetamine abuse) during the July 23, 2015 jurisdiction hearing regarding her other three children. DCFS argues that “Mother's failure to raise a jurisdictional challenge to the allegations regarding her methamphetamine abuse in the juvenile court precludes appellate review of this claim.”

Under the California Rules of Court, a parent who chooses not to contest jurisdiction has three options: “The parent . . . may [1] elect to admit the allegations of the petition, [2] plead no contest, or [3] submit the jurisdictional determination to the court based on the information provided to the court and waive further jurisdictional hearing.” (Cal. Rules of Court, rule 5.682(e); see also *N.M.*, *supra*, 197 Cal.App.4th at pp. 166-167.) “An admission that the allegations of a section 300 petition are true, as well as a plea of no contest to a section 300 petition, bars the parent from bringing an appeal to challenge the sufficiency of the evidence supporting the jurisdictional allegations. [Citation.] However, when a parent submits the jurisdictional issue to be determined by the juvenile court solely on the basis of the social worker's report, the parent does not waive his or her right to

challenge the sufficiency of the evidence to support the court’s jurisdictional finding. [Citation.] Such a submission requires the court to weigh evidence, make evidentiary findings and apply relevant law before making its jurisdictional finding. [Citation.]” (*N.M.*, *supra*, 197 Cal.App.4th at pp. 166-167).)

In this case, the transcripts of the jurisdictional hearings show that Mother did not admit to the truth of the allegations in SSA’s petition or DCFS’s petition. Instead, she merely submitted the question of jurisdiction to the court. Therefore, she has not waived her right to challenge the sufficiency of the evidence supporting the court’s findings.

3. The juvenile court’s jurisdictional findings are supported by substantial evidence

a. Substantial evidence supports the court’s finding that Ayden is a person described under Section 300, subdivision (b)

The juvenile court found Ayden was a person described under section 300, subdivision (b), which applies when “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child, . . . or by the inability of the parent . . . to provide regular care for the child due to the parent’s . . . mental illness, developmental disability, or substance abuse.”

“The three elements for a section 300, subdivision (b) finding are: ‘(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) “serious physical harm or illness” to the [child], or a “substantial risk” of such harm or illness.’ [Citation.] The third element . . . effectively requires a showing that at the time of the jurisdictional hearing the child is at substantial risk of serious physical harm in the future. . . . [Citations.]” (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1395-1396.) “Although section 300 generally requires proof the child is subject to the defined risk of harm at the time of the jurisdiction hearing [citations], the court need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child [citation]. The court may consider past events in deciding whether a child currently needs the court’s protection. [Citation.]

A parent's "[p]ast conduct may be probative of current conditions" if there is reason to believe that the conduct will continue.' [Citations.]" (*In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1383-1384.)

The reports that SSA submitted to the court contain evidence that: (1) Mother admitted she began using methamphetamine when she was 16 years old, and had previously abused the drug; (2) Mother admitted she had used the drug in the final days of her pregnancy with Ayden; and (3) Ayden tested positive for methamphetamine at the time of his birth. The record also contains evidence that Mother provided inconsistent information regarding the number of times she used methamphetamine in the days before Ayden's birth. At the time of Ayden's birth, she informed a hospital social worker that she had smoked methamphetamine "for a couple of days up until arriving at the hospital." In an interview on March 22nd, she told another social worker she had used methamphetamine during the two days prior to Ayden's birth. During an interview conducted after she had left the hospital, however, she told a DCFS social worker she had only used the drug "one time," which occurred the day after Mother's grandmother died.

The record also contains evidence that Mother provided inaccurate information regarding her recent drug use. Mother told multiple investigators that, with the exception of her relapse immediately prior to Ayden's birth, she had not used methamphetamine at any other time during the prior six or seven years. She later admitted, however, that she had been arrested for being under the influence of drugs in 2012, and her criminal history indicated she had suffered two such arrests in 2012. The SSA's detention report also contains evidence that Mother's UCIMC medical records indicated she had tested positive for methamphetamine during an examination at a Long Beach hospital in January of 2015, two months before Ayden's birth. Although Mother denied that assertion, she declined to sign a medical release that would have enabled SSA to review her Long Beach hospital records.

The evidence above, which includes an admission that Mother abused methamphetamine earlier in her life, inconsistent statements regarding her more recent drug use and an admission that she used the drug during the final stages of her pregnancy with Ayden, is sufficient to show Mother was an

abuser of methamphetamine. Moreover, the fact Mother used the substance in the final days of her pregnancy with Ayden, who tested positive for the drug at the time of birth, “unquestionably” shows she endangered his health and safety. (*In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1717 (*Christopher R.*) [mother’s “use[of] cocaine . . . while she was pregnant . . . unquestionably endanger[ed] the health and safety of her unborn child”].) Jurisdiction over Ayden was therefore proper under section 300, subdivision (b).

a. Substantial evidence supports the court’s finding that K.B., Alexzander and T.B. are persons described under section 300, subdivision (j)

The juvenile court found that Mother’s substance abuse problem supported jurisdiction over Ayden’s siblings under subdivision (j), which applies when the “[t]he child’s sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.”

Our Supreme Court has explained that “[t]he broad language of subdivision (j) clearly indicates that the trial court is to consider the totality of the circumstances of the child and his or her sibling in determining whether the child is at substantial risk of harm, within the meaning of any of the subdivisions enumerated in subdivision (j). The provision thus accords the trial court greater latitude to exercise jurisdiction as to a child whose sibling has been found to have been abused than the court would have in the absence of that circumstance.’ [Citation.]” (*I.J., supra*, 56 Cal.4th at p. 774.)

As discussed above, the record contains substantial evidence that Mother abused or neglected the children’s sibling by using methamphetamine during the final stages of her pregnancy with Ayden. Accordingly, the only issue we must determine is whether the record contains sufficient evidence to

support the juvenile court's finding that K.B., Alexzander and T.B. were at substantial risk of neglect or abuse. We conclude that it does.

First, the fact Mother used methamphetamine in the final stages of her pregnancy with Ayden shows that there is a risk she might use the drug while supervising her children, for whom she was the primary caretaker. Second, Mother repeatedly admitted that she has been diagnosed with bipolar disorder, but was not receiving any treatment for her condition. Third, there was overwhelming evidence that the conditions in the apartment where Mother had resided with the children were unsanitary. Multiple witnesses testified that the residence was infested with mice and cockroaches. DCFS also provided photographs that show bags of clothing, garbage, food and soiled food containers on the floors of the apartment. Mother's history of methamphetamine abuse, which included drug use during the late stages of her pregnancy with Ayden, combined with her untreated mental disorder and her inability to maintain a sanitary residence, are sufficient to support the juvenile courts' finding that K.B., Alexzander and T.B. were at risk of abuse or neglect.¹

B. Substantial Evidence Supports the Trial Court's Disposition Order

Mother also argues there is insufficient evidence "to support the juvenile court's dispositional order removing the children from Mother's custody." Section 361, subdivision (c) provides, in relevant part: "A dependent child shall not be taken from the physical custody of his or her parents . . . with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence of any of the following circumstances . . . : [¶] (1) There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected

¹ Because we conclude that substantial evidence supports the trial court's jurisdictional finding under subdivision (j), we decline to review whether there was sufficient evidence to support the other alleged grounds for jurisdiction. [Citations.]” (*I.J.*, *supra*, 56 Cal.4th at p. 773.)

without removing the minor from the minor's parent's or guardian's physical custody.”

Although the burden of proof to remove a child from the physical custody of his or her parent is clear and convincing evidence, we nonetheless review the disposition order for substantial evidence: “The ‘clear and convincing’ standard . . . is for the edification and guidance of the trial court and not a standard for appellate review. [Citations.] “The sufficiency of evidence to establish a given fact, where the law requires proof of the fact to be clear and convincing is primarily a question for the trial court to determine, and if there is substantial evidence to support its conclusion, the determination is not open to review on appeal.”” (*Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880-81; see *Christopher R.*, *supra*, 225 Cal.App.4th at p. 1216, fn. 4.)

DCFS contends that Mother waived her right to challenge the disposition order because she expressly submitted to the agency's recommended case plan (which included the removal of the children) during the disposition hearing.² Our courts have held that, in contrast to the situation in which a parent submits to the trial court's determination of jurisdiction, a parent's decision to “submit[] the dispositional issue based on the social worker's recommendation . . . [does] precludes the parent from challenging the evidence to support the dispositional order because the parent has acquiesced to the [social worker's] recommendation.” (*N.M.*, *supra*, 197 Cal.App.4th at p. 167.) In this case, Mother's counsel specifically stated that Mother had agreed to “submit[] to the Department's case plan.” “By submitting on the recommendation without introducing any evidence or

² The transcript of the disposition hearing shows that Mother submitted to DCFS's disposition plan, but objected to its recommendation that the court terminate jurisdiction to Alexzander with a family law exit order awarding custody to father, a non-offending parent. Mother has not presented any argument in this appeal regarding the termination of jurisdiction over Alexzander. Instead, she alleges only that there was insufficient evidence to support the court's decision that leaving the children in her custody would be a substantial danger to their safety, and that there were no reasonable means the minors' health could be protected without removing them from the home.

offering any argument, the parent waived her right to contest the juvenile court's disposition since it coincided with the social worker's recommendation." (*In re Richard K.* (1994) 25 Cal.App.4th 580, 589-590.)

Even if Mother had preserved her challenge to the disposition order, the same evidence that supports jurisdiction over the children is also sufficient to support the disposition order removing them from her care. As explained above, the evidence showed Mother had a history of methamphetamine abuse, and exposed Ayden to the drug before his birth. The evidence also indicated that Mother had an untreated mental illness (bipolar disorder), and that the family residence was infested with mice and cockroaches. Taken together, Mother's unresolved methamphetamine problems, her mental issues and the condition of the home provided a sufficient basis to remove the children from the home. (See *Christine R.*, *supra*, 225 Cal.App.4th at p. 1218-1219 [mother's "use of cocaine during the last months of her pregnancy confirmed her poor judgment and willingness to endanger her children's safety due to substance abuse," which support juvenile court's "decision to remove the children from her care"].)

DISPOSITION

The juvenile court's orders are affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.